

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Serial No: 10/764,676

Confirmation No. 9441

Peter Rohnert, et al.

Examiner T.A. Solola

Filed: January 26, 2004

Art Unit 1626

For: Drug Preparation Comprising α -Lipoic Acid, Ambroxol And/Or Inhibitors Of The Angiotensin-Converting Enzyme (ACE) And Its Use For The Treatment Of Neurodegenerative Diseases

**RESUBMISSION OF PETITION UNDER 37 C.F.R. §1.181(A) TO WITHDRAW
HOLDING OF ABANDONMENT**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a resubmitted Petition to Withdraw the Holding of Abandonment of the above-identified patent application.

Applicants' initial Petition in this case was filed with the Patent Office on March 4, 2009, and was dismissed (but not denied) in a Decision on Petition rendered October 20, 2010.

The facts related to this matter are as follows:

A Notice of Abandonment in the present case was mailed on February 23, 2009. It indicated that the above-identified patent application went abandoned for "failure to timely pay the required issue fee and publication fee." However, on January 21, 2009, Applicants did submit the issue fee transmittal document with a signed certificate of first class mailing dated January 21, 2009, and a check for payment of required issue fee and publication fee in the amount of \$1,810.00.

Applicants' initial Petition included copies of the following:

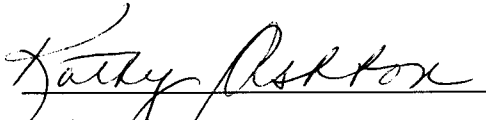
1) A copy of the Issue Fee Transmittal **with a signed certificate of first class mailing** dated January 21, 2009; and

2) A copy of our check (No. 492878) in the amount of \$1,810.00.

Copies of items 1) and 2) as provided with the initial Petition are also submitted with this resubmitted Petition.

Thus, a signed certificate of mailing was included on the issue fee transmittal document which was mailed to the U.S. Patent Office, along with the aforementioned check on January 21, 2009, and was therefore timely under 37 C.F.R. §1.8(a). The certificate of mailing was signed on the issue fee transmittal document by Ms. Kathy Ashton, who makes the following statement:

I, **Kathy Ashton**, attest based on personal knowledge that I signed the Certificate of Mailing on the Issue Fee transmittal document for the above-referenced patent application on January 21, 2009. On January 21, 2009, I deposited the issue fee transmittal document (and our check No. 492878 for the required fees) with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to: Mail Stop ISSUE FEE, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia, 22313-1450:


Kathy Ashton

Dated: 11/17/2010

Applicants respectfully point out the present Petition is being resubmitted in response to the Decision on Petition dated October 20, 2010. That Decision on Petition dismissed (but did not deny) the initial Petition for allegedly lacking evidence, but did not include information about re-submitting the Petition with the evidence deemed to be lacking. Applicants nevertheless believe they are entitled to resubmit the present papers with additional information alleged to be missing from the initial Petition, and thus believe this resubmission of the Petition is permissible

Serial No.: 10/764,676

Attorney Docket No.: 013183.00037

and timely and meets the requirements of 37 C.F.R. 1.8(b), and any other applicable requirements for granting. Accordingly, it is respectfully requested that the instant resubmitted Petition be granted and the holding of abandonment of the above-identified patent application be withheld and the application be passed to issuance.

Our records indicate the US Patent Office has not cashed the aforementioned check for payment of required fees for issuance of the patent. Accordingly, the Commissioner is hereby authorized to charge Deposit Account, No. 08-2442 for the required issue and publications fees, and for any other fees required to allow this application to be issued. It is believed no other fees are due for this resubmitted Petition. If any other fees are due, the Commissioner is hereby authorized to also deduct those fees from the same Deposit Account.

If there are any difficulties with this resubmitted Petition, it is requested that the undersigned be contacted at the telephone number indicated below.

Respectfully submitted,

HODGSON RUSS LLP
Attorneys for Applicants

/John D. Lopinski/

By: _____
John D. Lopinski, Esq.
Reg. No. 50,846

Date: **November 17, 2010**

Hodgson Russ LLP
The Guaranty Building
140 Pearl Street, Suite 100
Buffalo, New York 14202-4040
(716) 856-4000

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or **Rax** (571)-273-2885



INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

26712 7590 10/29/2008

HODGSON RUSS LLP
THE GUARANTY BUILDING
140 PEARL STREET
SUITE 100
BUFFALO, NY 14202-4040

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

Kathy Ashton (Depositor's name)
Kathy Ashton (Signature)
January 21, 2009 (Date)

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10764,676 | 01/26/2004 | Peter Rohmert | 13183.0037 | 9441 |

TITLE OF INVENTION: DRUG PREPARATION COMPRISING ALPHA-LIPOIC ACID, AMBROXOL AND/OR INHIBITORS OF THE ANGIOTENSIN-CONVERTING ENZYME (ACE) AND ITS USE FOR THE TREATMENT OF NEURODEGENERATIVE DISEASES

| APPLN. TYPE | SMALL ENTITY | ISSUE FEE DUE | PUBLICATION FEE DUE | PREV. PAID ISSUE FEE | TOTAL FEE(S) DUE | DATE DUE |
|----------------|--------------|---------------|---------------------|----------------------|------------------|------------|
| nonprovisional | NO | \$1510 | \$300 | \$0 | \$1810 | 01/29/2009 |

| EXAMINER | ART UNIT | CLASS-SUBCLASS |
|------------------|----------|----------------|
| SOLOLA, TAOFIQ A | 1625 | 514-440000 |

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Hodgson Russ LLP
2
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

Keyneurotek Pharmaceuticals AG

(B) RESIDENCE (CITY AND STATE OR COUNTRY)

Magdeburg, Germany

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

☒ Issue Fee
☒ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

☒ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☒ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number 08-2442 (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

Typed or printed name John D. Lopinski

Date January 21, 2009

Registration No. 50,846

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

WARNING: DO NOT ACCEPT THIS DOCUMENT UNLESS YOU CAN SEE A GHOST FEATURE WHEN HELD AT A 45 DEGREE ANGLE TO THE LIGHT.

HODGSON RUSS LLP
ATTORNEYS AT LAW
BUFFALO, NY 14202-4040

M & T Bank
Hodgson Russ Trust Company
Central Bank
Northern Business Center - Newburgh, NY 12550
50-757 NE
219
492878

CHECK NO. 492878
CHECK DATE Jan-21-2009
VENDOR NO. 101465

ONE THOUSAND EIGHT HUNDRED TEN AND 00/100**DOLLARS**

PAY TO THE ORDER OF
DIRECTOR OF U S PATENT AND TRADEMARK OFFICE

CHECK AMOUNT
\$*****1,810.00

HODGSON RUSS LLP
OPERATING ACCOUNT

BY

HODGSON RUSS LLP/ATTORNEYS AT LAW

CHECK DATE: 01-21-09
492878

| INV. DATE | INV. # | VOUCHER # | INVOICE DESCRIPTION | AMOUNT PAID |
|-----------|--------------|-----------|----------------------------|-------------|
| 01-21-09 | 013183.00037 | 690895 | PTO filing fee - issue fee | 1,810.00 |
| DAVEC. | 101465 | | | |